



DEPARTMENT OF EDUCATION

[Docket No.: ED-2022-SCC-0117]

Agency Information Collection Activities; Comment Request; Build America, Buy America Act (BABAA) Domestic Sourcing Requirements Waiver - United States Department of Education BABAA Waiver Request Form

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new collection.

DATES: The Department is requesting emergency processing and OMB approval for this information collection by 9/30/2022; and therefore, the Department is requesting public comments by September 30, 2022. A regular clearance process is also hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2022-SCC-0117. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at ICDocketMgr@ed.gov.

Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or e-mail and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave, SW, LBJ, Room 6W203, Washington, DC. 20202-8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Pedro Romero, (202) 453-7886.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Build America, Buy America Act (BABAA) Domestic Sourcing Requirements Waiver - United States Department of Education BABAA Waiver Request Form

OMB Control Number: 1894-NEW

Type of Review: New Collection

Respondents / Affected Public: State, Local, and Tribal Governments

Total Estimated Number of Annual Responses: 470

Total Estimated Number of Annual Burden Hours: 4700

Abstract: In accordance with section 70914 of the Build America Buy America Act (Pub. L. No. 117-58 §§ 70901-70953) (BABAA), grantees funded under the Department's programs that allow funds to be used for infrastructure projects (infrastructure programs), i.e., construction and broadband infrastructure, may not use their grant funds for these infrastructure projects or activities unless they comply with the following BABAA sourcing requirements: 1) All iron and steel used in the infrastructure project or activity are produced in the United States, 2) All manufactured products used in the infrastructure project or activity are produced in the United States, and 3) All construction materials are manufactured in the United States.

The Department may, in accordance with sections 70914(b) and (d), 70921(b), 70935, and 70937 of BABAA, and the Office of Management and Budget Memorandum M 22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, approve waivers to BABAA sourcing requirements submitted by grantees under programs it has identified as infrastructure programs when it determines that exceptions to these requirements apply. The Department may approve, subject to notice and comment requirements and the Office of Management and Budget Made in America Office (MIAO) review, the types of waivers listed below when one or more of the following conditions are met: 1) Public

Interest Waiver - Applying the BABAA sourcing requirement would be inconsistent with the public interest, 2) Non-availability Waiver - The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, and 3) Unreasonable Cost Waiver - The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

This is a new information collection, and it includes the following two documents: 1) the Build America, Buy America Act (BABAA) Domestic Sourcing Requirements Waiver - United States Department of Education BABAA Waiver Request Form (BABAA Waiver Request Form); and 2) a document listing the BABAA Waiver Request Form data elements.

Additional Information: Pursuant to the Office of Management and Budget (OMB) procedures established at 5 CFR 1320, the Department requests that the following collection of information, Build America, Buy America Act (BABAA) Domestic Sourcing Requirements Waiver - United States Department of Education BABAA Waiver Request Form (BABAA Waiver Request Form), be processed in accordance with section 1320.13 Emergency Processing. This this information is essential to the Department's ability to effectively approve waiver requests for Department grantees as required in accordance with section 70914 of the Build America Buy America Act (Pub. L. No. 117-58 §§ 70901-70953) (BABAA) and OMB Memorandum M 22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure. If normal processing were to be followed, ED would not be able to implement the BABAA Waiver Request Form on October 1, 2022, which is the date that it must implement BABAA requirements under its currently OMB approved adjustment period waiver. Delays in implementing resulting

from normal processing would likely result in overall delays to critically important project goals and objectives and would inhibit grant infrastructure projects and activities from moving forward.

Dated: September 19, 2022.

Stephanie Valentine,

PRA Coordinator,

Strategic Collections and Clearance

Governance and Strategy Division,

Office of Chief Data Officer,

Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022-20538 Filed: 9/21/2022 8:45 am; Publication Date: 9/22/2022]